

FOURTH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA ** PARISH OF OUACHITA

KOYNE D. SMITH

FILED:
NOV 24 2008

VERSUS NO. 08-4304

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CVS PHARMACY , No. 05521
DY. CLERK OF COURT

PETITION FOR DAMAGES

The petition of Koyné D. Smith, (Ms. Smith) a permanent resident of Missouri City, Fort Bend County, Texas and a temporary resident of Ouachita Parish, Louisiana, residing at 4505 Reddix Lane, Monroe, Louisiana 71202, with respect represents that:

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Made defendant herein is CVS PHARMACY, whose address is 3423 Cypress Street, West Monroe, Louisiana, whose agent for service of process is CT Corporation System, 5615 Corporate Blvd., Suite B, Baton Rouge, LA 70808.

2.

Claimant was a patient of and under the continual care of Dr. Cynthia Louise Brown-Manning, hereinafter referred to as Dr. Manning. In October 2007, Ms. Smith sought care from and was treated by Dr. Brown-Manning for swelling in her lower extremities in addition to back and hip pain. Dr. Manning prescribed various diuretics - Torsemide 100 mg., Metolazone 5mg, and Zestoretic 20/25 for hypertension.

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On or about November 7, 2007, CVS Pharmacist Michael Lindsey filled Prescription Number 451433, a prescription written by Dr. Manning for Torsemide 100 mg, directing Ms. Smith to "take ½ tablet (50 mg) once a day". Then, on or about November 15, 2007, CVS Pharmacist Anna Chop filled Prescription Number 453531, a prescription also written by Dr. Manning for Metolazone 5 mg, directing Ms. Smith to "take one (1) tablet by mouth twice a day". These medications were prescribed in addition to Ms. Smith's existing medications which included Zestoretic 20/25, a blood pressure medication containing a diuretic.

These medications were filled by CVS Pharmacy located at 3423 Cypress Street.

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West Monroe, Ouachita Parish, Louisiana.

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located at 3423 Cwates

located at 3423 Cypress Street

EXHIBIT



4..

Upon picking up the Metolazone from CVS, Ms. Smith requested that the CVS pharmacist review her medications, which she did and the pharmacist advised and assured her that it was safe to take the medications. this additional diuretic was to be taken in addition to the other medications (diuretics in question). Relying upon the counsel of the pharmacist, Ms. Smith took the medications as directed.

5.

On the morning of November 24, 2007, Ms. Smith awakened to projectile vomiting that she could not control. Ms. Carolyn Jones, a family friend, immediately took Ms. Smith to the emergency room of St. Francis Medical Center in Downtown in Monroe, Louisiana. She was treated by Dr. Thomas St. Clair Williams (Dr. Williams) who was on-call for Dr. Manning. In the presence of Ms. Jones, Dr. Williams reviewed Ms. Smith's medications, health history, and questioned Ms. Smith about treatment and lab work provided by Dr. Manning.

6.

Dr. Williams advised Ms. Smith that her kidneys had shut down, and that she was in complete renal failure. Ms. Smith was admitted to St. Francis Medical Center from Saturday, November 24, 2007, and hospitalized for approximately one week. She was in agonizing pain all day and night from November 24, 2007 and beyond, with no relief. Her lower extremities and hands swelled like balloons, with no one able to touch her without inflicting excruciating pain. Her CPK levels spiked into the hundreds of thousands, and she remained in excruciating pain. Her hands curled under and she was unable to care for herself during her hospitalization—she could not initially use her hands at all, and needed assistance with her personal care needs, female care needs, feeding, toileting, bathing, grooming, and eating. .

7.

On November 25, 2007 Ms. Smith coded, but was blessedly resuscitated and additional medical support rendered.

On Monday, November 26, 2008, Ms. Smith was taken to surgery for insertion of a central line in preparation for dialysis. She was seen by a host of physicians that week.

8.

Ms. Smith alleges that after she was hospitalized on November 24, 2007 and subsequently discharged she discovered CVS is partially responsible for the injuries received. The pharmacists deviated from their standard of care as licensed pharmacist by not thoroughly checking on drug interactions in reviewing Ms. Smith's prescription profile. The large quantity of diuretics prescribed should have alerted the pharmacists that the quantity of diuretics would result in potential renal failure. . A simple computer program, such as Micro Medic,¹ should have caught the errors and should have been employed for drugs interactions or over prescription. If the pharmacist had properly ran the computer test of the medications, she should have contacted Dr. Brown-Manning to question the prescription given.

9.

Ms. Smith endured excruciating pain (and still has to wear pain patches and take medications), a major surgery to insert a central line and the large metal neck brace, both to begin dialysis. As a result of the renal failure and the swelling of her extremities (feet and hands), she developed severe carpal tunnel disease and had to undergo physical and occupational therapy to regain her strength. Ms. Smith's hands curled under thereby preventing her personal care or performance of her activities of daily living.

10.

Ms. Smith alleges that the injury to her kidneys and the resulting trauma to her body, would take a lot of work and strength to get through the ordeal. Her entire body had been through "shock and insult" and had a traumatic ordeal. Ms. Smith went into a deep dark depression and thought she would die leaving her only closest relative, her elderly mother, alone with no care giver..

11.

Ms. Smith was in such pain no one could touch her, not even her mother. Her mother's attempt to hug and comfort her cause her to scream (loss of consortium). Ms. Smith could not take care of any of her personal care/ hygiene needs, and had to be cared for around the clock

¹A medical and pharmaceutical computer program that give drugs interaction and/or reaction.

Ms. Smith could not walk on her own because she was so weak and dizzy, nauseated, etc. she had to receive physical therapy. Ms. Smith could not write, type, drive, etc. and the depression continued.

12.

Ms. Smith is now extremely cautious about everything in life. Her medications increased significantly, and her total diet had to change to account for the renal failure. Ms. Smith was unable to stand on her own, much less walk and all of the skin under her feet came completely off as a result of the injury.

13.

Ms. Smith is an Attorney licensed to practice law in the State of Texas and has been a practicing Attorney for more than fourteen (14) years. Prior to this incident Ms. Smith was the primary care giver for her mother, Malvin Smith. Ms. Smith was traveling between Texas and Louisiana taking care of mother in Louisiana and taking care of her clients in Texas. Ms. Smith alleges pass and future lost of wages from her employment, and loss earning potential and income as a licensed attorney.

14.

Ms. Smith is under the continuing care of licensed physicians, including a pain care specialist, an internist, and will be under the continuing care of a rheumatologist. Ms. Smith has incurred more than \$100,000 in past medical bills and services and will incur future medical bills and services for her need of continuing care.

WHEREFORE, petitioner, Koyné D. Smith prays that defendant, CVS Pharmacy be served with a copy of this petition and after all due proceedings had there be judgment rendered herein in favor of petitioner and against defendant, in a reasonable amount to be determine by this Honorable Court, together with legal interest from date of judicial demand until paid and all cost.

Petitioner further prays for past and future medical services and loss of past and future wages, potential, and income.

Petitioner further prays for loss of consortium, pain and suffering, and any general relief petitioner is entitle to.

Respectfully Submitted

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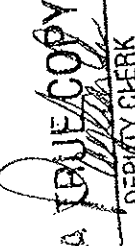


CLYDE LAIN, II
ATTORNEY FOR PETITIONER

Please serve:

CVS PHARMACY, whose address is 3423 Cypress Street, West Monroe, Louisiana,
whose agent for service of process is CT Corporation System, 5615 Corporate Blvd.,
Suite B, Baton Rouge, LA 70808.

LAW OFFICE OF
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A TRUE COPY

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